

CIVIL SERVICE COMMISSION MINUTES
March 7, 2007

A regular meeting of the Civil Service Commission was held at 2:30 p.m., 6th Floor Tower of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

Francesca Krauel
W. Dale Bailey
Cheryl Fisher
A.Y. Casillas
Barry I. Newman

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
William D. Smith, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission
April 4, 2007

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
March 7, 2007

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters
 and Pending Litigation

2:30 p.m. OPEN SESSION: **6th Floor Tower**, 1600 Pacific
 Highway, San Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4,5,6,7,8,9			

COMMENTS: Motion by Newman to approve all items not held for
discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision
(b) of Government Code Section 54956.9: one potential case.

OPEN SESSION AGENDA
County Administration Center, **6th Floor Tower**

MINUTES

1. Approval of the Minutes of the regular meeting of February
7, 2007.

Approved.

CONFIRMATION OF REASSIGNMENT & ASSIGNMENT

2. Commissioner Bailey: **Susan McInerney**, Deputy Public Defender
III, appealing her non-selection for the classification of Deputy
Public Defender IV by the Office of the Public Defender.
(Commissioner Newman was originally assigned.)

Confirmed.

3. Commissioner Fisher: Richard Pinckard, Esq., on behalf of 2007-05, appealing an Order from the Sheriff's Department.

Confirmed.

CLASSIFICATION REVIEWS

Findings

4. Commissioner Newman: **Felipe Agosto**, Engineering Technician III, Department of Public Works, Civil Service Rule XII classification review.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on November 1, 2006, the appeals of Felipe Agosto and David Ortiz regarding the reclassification of their positions as Engineering Technicians III in the Department of Public Works were considered. The Commission appointed Barry I. Newman, one of its members, to hear the appeals and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, a hearing was conducted pursuant to Section 12.5 (Step 5) of the Civil Service Rules of the County of San Diego on January 18, 2007.

Based on the findings and conclusions, Commissioner Newman recommends that the Employees' claims that they were working outside the ET III classification specification be denied; that the Commission approve and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Newman to approve Findings and Recommendations; seconded by Fisher. Carried.

5. Commissioner Newman: **David Ortiz**, Engineering Technician III, Department of Public Works, Civil Service Rule XII classification review.

FINDINGS AND RECOMMENDATIONS:

See Item No. 4 above.

Motion by Newman to approve Findings and Recommendations; seconded by Fisher. Carried.

DISCRIMINATION

Findings

6. Commissioner Casillas: **Michael Porter**, Social Worker I, alleging disability discrimination by the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

At the regular meeting of the Civil Service Commission on January 17, 2007, the Commission appointed A. Y. Casillas to investigate the complaint submitted by Michael Porter, alleging disability discrimination by the Health and Human Services Agency and concurrently referred the matter to the Office of Internal Affairs (OIA) for investigation.

After reviewing all related documentation, the Investigating Officer concluded that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred and recommended that Mr. Porter's Rule VI discrimination complaint be denied; that the Commission approve and file the report with the appended OIA Summary Investigative Report with a finding of no probable cause that Mr. Porter has been unlawfully discriminated against; and that the proposed decision become effective upon the date of approval by the Civil Service Commission.

Motion by Casillas to approve Findings and Recommendations; seconded by Newman. Carried.

REINSTATEMENT REQUEST

Findings

7. Commissioner Krauel: **Gabriele Bivens**, former Residential Care Worker II, requesting employment reinstatement with the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

The matter of the request of Gabriele Bivens ("Employee" hereinafter) for reinstatement, after a written notice informing Employee that, pursuant to the presumption contained in Section 14.2.3 of the Civil Service Rules, the Health and Human Services Agency ("Department" hereinafter) had deemed Employee to have resigned from her class and position of Residential Care Worker II (Class No. 5072) in the Department, was presented to the Civil Service Commission.

The Commission appointed Francesca Krauel, one of its members, to hear the request for reinstatement and submit findings, conclusions and a proposed decision to the Civil Service Commission. Thereafter, the matter was duly noticed and came on for hearing January 19, 2007.

Based on the findings and conclusions, Commissioner Krauel recommends that the Employee be reinstated, effective October 5, 2006. That the reinstatement be without a break in continuous service. Employee is deemed to be on leave without pay from October 7, 2006 to November 13, 2006, when the Department notified Employee that she was separated. That Employee is entitled to back pay, benefits and interest, minus any wages she received from outside employment, from November 14, 2006 (one day after receiving the notice of separation) to the date of this Commission's decision. That Employee is subject to return to duty immediately following this Commission decision; that the Commission approve and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Krauel to approve Findings and Recommendations; seconded by Casillas. Carried.

Commissioner Newman explained that he would be voting against the motion because he found contradictory evidence between the Employee and the Department regarding the "excused" absence.

AYES:	KRAUEL, BAILEY, FISHER, CASILLAS
NOES:	NEWMAN
ABSTENTIONS:	NONE
ABSENT:	NONE

SELECTION PROCESS

Appeals

8. **Marin Garrison**, Equipment Operator, appealing alleged flaws in the selection process used by the Department of Public Works for the classification of Sanitation Regional Supervisor.

RECOMMENDATION: Deny Request.

Mr. Garrison addressed the Commission stating his concerns with the selection process for Sanitation Regional Supervisor. He explained his observations regarding potential biases in the application rating portion of the process as well as the department interview.

Vickie Mondane, Department Personnel Officer (DPO) DHR/Public Works; Susi Kuklinski, Human Resources Service Manager and Laurie Szymanski, Senior DPO, Public Works responded on behalf of the Departments. It was their positions that the process was fair and unbiased.

The Commission had many questions and concerns regarding the process and opted to grant Mr. Garrison's request for hearing in order to better comprehend the manner in which this selection process was administered.

Motion by Bailey to grant a Rule X hearing; seconded by Fisher. Carried.

Commissioner Newman agreed with the Commission's concerns, however he does not believe the selection process failed.

AYES:	KRAUEL, BAILEY, FISHER, CASILLAS
NOES:	NEWMAN
ABSTENTIONS:	NONE
ABSENT:	NONE

9. Tasha Iglesias, SEIU Local 2028, on behalf of **Jesus Pamintuan**, Food Services Supervisor, appealing his non-selection for the classification of Assistant Chief Food Services by the Sheriff's Department.

RECOMMENDATION: Deny Request.

Mr. Pamintuan addressed the Commission regarding his appeal for his non-selection for the classification of Assistant Chief Food Services. Denise Reiber, DPO, Sheriff's Department was available for clarification/questions on behalf of the Department.

Motion to accept staff recommendation; seconded by Bailey. Carried.

Findings

10. **Joseph Jarjura**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff Cadet-Detentions/Court Services.

11. **Jeremy Mann**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff Cadet-Detentions/Court Services.

RECOMMENDATION: Ratify Item Nos. 10 & 11. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2.

Items No. 10 and 11 ratified.

OTHER MATTERS

Extension of Temporary Appointments

12. Office of the Public Defender

1 Deputy Public Defender I (Karen McCready)

13. Health and Human Services Agency

5 Residential Care Worker Trainees (Nicole Baca, Vicky Diaz, Sandra Garcia, Crystal Barrera, Robert Tingzon)

1 Residential Care Worker I (Steven Madrid)

RECOMMENDATION: Ratify.

Items No. 12 and 13 ratified.

14. Public Input.

ADJOURNED: 3:46

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION:

APRIL 4, 2007